

California Regional Water Quality Control Board  
Santa Ana Region

**Update To The**  
**NOVEMBER 21, 2003**

**AGENDA**

**Please note the following changes to the Agenda:**

Item No.:

- 9        **Waste Discharge Requirements, Bruce Hohn/AVMGH II Limited Partnership, Temescal Creek Remediation Project/Inert Waste Disposal, Corona, Riverside County** — This item has been postponed.
- 11       **Report of Hearing Panel to Full Board, Kaiser Resources** — The Panel Hearing in this matter was postponed; therefore, this item has been removed from the agenda.
- 12       **Public Workshop, Basin Plan Amendment, Related to Nitrogen and Total Dissolved Solids Management in the Santa Ana Region** — Documentation for this item may be viewed on our website.
- 13       **Administrative Civil Liability Complaint, Pyro Spectaculars, Inc., San Bernardino County** — The hearing on the ACL Complaint has been removed from the agenda
- 14       **Mandatory Penalties Complaint, USA Gasoline Corporation, San Bernardino County** — This item has been postponed.
- 15       **Mandatory Penalties Complaint, Ross Pallets, Inc., Orange County** — Discharger has waived the right to a hearing.
- 16       **Mandatory Penalties Complaint, Pilkington Aerospace, Inc., Orange County** — Discharger has waived the right to a hearing.
- 17       **Administrative Civil Liability Complaint, Consolidated Container Co., Orange County** — Discharger has waived the right to a hearing.

California Regional Water Quality Control Board  
Santa Ana Region  
Staff Report  
November 21, 2003

**ITEM:** 16

**SUBJECT:** Order No. R8-2003-0127 Affirming Mandatory Penalty Complaint No. R8-2003-0118, Pilkington Aerospace, Inc., Garden Grove, Orange County

**BACKGROUND**

On October 22, 2003, the Executive Officer issued Mandatory Penalty Complaint (MPC) No. R8-2003-0118 to Pilkington Aerospace, Inc. (Pilkington) for alleged violations of the State General Permit for Storm Water Runoff Associated with Industrial Activity (General Permit). In the MPC (attached), the Executive Officer proposed an assessment of \$1,000 for the alleged violation.

**INTRODUCTION**

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is whether to adopt Order No. R8-2003-0127 affirming the proposed mandatory penalty complaint against Pilkington.

MPC No. R8-2003-0118 was issued by the Executive Officer to Pilkington for failing to submit an Annual Report as required by the General Permit.

**DISCUSSION**

The General Permit regulates the discharge of storm water from industrial sites as required under Section 402(p) of the Federal Clean Water Act. Coverage under the permit is obtained by filing a Notice of Intent (NOI), site map, and fee (annual fee of \$700), with the State Water Resource Control Board. One of the requirements of the General Permit is that permittees submit by July 1 of every year, an annual report that documents: storm water sampling and analysis results; visual observations of facility conditions; the facility's Annual Comprehensive Site Compliance Evaluation; and a certification as to the accuracy of the submitted information.

Prior to the July 1, 2003 deadline, a notice from the State Water Resources Control Board was mailed to Pilkington indicating that a copy of the blank 2002-2003 Annual Report could be accessed via the internet, and that a hard copy would only be mailed to Pilkington if requested. Because the annual report was not received by Board staff by the July 1, 2003 deadline, a Notice of Non-Compliance (NNC) was issued to Pilkington, by certified mail, on July 24, 2003. The return receipt showed it was received on July 29, 2003. When Board staff received no response to the first NNC, a second NNC was issued on August 25, 2003, again by certified mail, and was received on September 2, 2003. In both NNCs, Board staff requested submittal of the completed annual report by September 25, 2003, a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time.

Both NNCs also identified the mandatory minimum penalty for failure to submit the annual report by the September 25, 2003 deadline.

On September 17, 2003, Board staff left a telephone message for Mr. Michael Baumeister, Pilkington's Environmental Health and Safety Manager, regarding the facility's non-submittal of the annual report. On September 19, 2003, Mr. Baumeister returned Board staff's telephone call indicating that he would be working on the annual report that weekend. Board staff left additional telephone messages for Mr. Baumeister on September 23, 2003 and September 25, 2003 reminding Pilkington that the annual report must be submitted by September 25, 2003 to avoid mandatory penalty. Later on the 25<sup>th</sup>, Board staff spoke to Mr. Baumeister and Mr. Larry Valenti (Vice President) and both informed Board staff that the deadline would not be met. Board staff again informed them of the mandatory minimum penalties. The annual report was received in this office on September 29, 2003.

Pilkington failed to submit the required Annual Report to the Regional Board office within 60 days from the date on which the original Notice of Noncompliance was sent. Under those circumstances, California Water Code Section 13399.33(c) requires that a mandatory penalty shall be administratively imposed by the Regional Board in an amount that is not less than one thousand dollars (\$1,000).

### **RECOMMENDATION**

Board staff recommends that the Board affirm the assessment of \$1,000 specified in the Mandatory Penalty Complaint issued by the Executive Officer on October 22, 2003, by adopting Order No. R8-2003-0127.

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

<b>In the matter of:</b>	)	<b>Order No. R8-2003-0127</b>
	)	<b>for</b>
<b>Pilkington Aerospace, Inc.</b>	)	<b>Mandatory Minimum Penalty</b>
<b>12122 Western Avenue</b>	)	
<b>Garden Grove, CA 92841</b>	)	
	)	
<b>Attention: L. D. Valenti</b>	)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on November 21, 2003 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2003-0118, dated October 22, 2003, and on the recommendation for the imposition of a mandatory penalty pursuant to Water Code Section 13399.33(c) in the amount of \$1,000. The Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities (Permit). Pilkington Aerospace, Inc. (Pilkington), is authorized to discharge storm water under the Permit, WDID 8301002331. The Permit requires Pilkington to submit an annual report by July 1 of each year. Prior to the July 1, 2003 deadline, the SWRCB mailed a notice to Pilkington indicating that the blank annual report form was available from the website and a hard copy would only be mailed if requested. Pilkington did not submit the annual report by July 1, 2003. Subsequently, Board staff sent two certified Notices of Noncompliance (NNCs) to Pilkington, the first one on July 24, 2003 and the second one on August 25, 2003. These NNCs reminded Pilkington that the annual report had not been submitted and that there is a mandatory penalty for non-submittal of the annual report. The NNCs required Pilkington to submit the annual report by September 25, 2003. Prior to September 25, 2003, Pilkington was also reminded by phone to submit the annual report. The annual report was submitted on September 29, 2003.
2. Pilkington failed to submit the annual report to the Regional Board office within 60 days from the date of the original Notice of Noncompliance.
3. Water Code Section 13399.33(c) requires the Board to assess a mandatory minimum penalty of one thousand dollars (\$1,000) for non-submittal of an annual report under these circumstances.
4. On October 22, 2003, the Executive Officer issued Mandatory Penalty Complaint No. R8-2003-0118 to Pilkington proposing that the Board impose the mandatory minimum penalty of \$1,000 on Pilkington for the violations cited above.

5. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED** that, pursuant to California Water Code Section 13399.33(c), a mandatory penalty shall be imposed on Pilkington Aerospace, Inc., in the amount of \$1,000, as proposed in Complaint No. R8-2003-0118 for the violations cited, payable as set forth below.

1. Pilkington shall pay \$1,000 to the State Water Resources Control Board by December 22, 2003.
2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 21, 2003.

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Gerard J. Thibeault  
Executive Officer

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

<b>In the matter of:</b>	)	<b>Complaint No. R8-2003-0118</b>
	)	<b>for</b>
<b>Pilkington Aerospace, Inc.</b>	)	<b>Mandatory Penalties</b>
<b>12122 Western Avenue</b>	)	
<b>Garden Grove, CA 92841</b>	)	
	)	
<b>Attention: L. D. Valenti</b>	)	

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**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on November 21, 2003, at the Eastern Municipal Water District, in the city of Perris. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of mandatory penalties by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed Mandatory Penalties Complaint or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Pilkington Aerospace, Inc. (hereinafter Pilkington), located at 12122 Western Avenue, Garden Grove, is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The facility's WDID Number is 830I002331. The General Permit requires submittal of an annual report by July 1 of each year.
5. Prior to the July 1, 2003 deadline, a notice from the State Water Resources Control Board (SWRCB) was mailed to Pilkington indicating that a copy of the blank 2002-2003 Annual Report could be accessed via the internet, and that a hard copy would only be mailed to Pilkington if requested. Because the annual report was not received by Board staff by the July 1, 2003 deadline, a Notice of Non-Compliance (NNC) was issued to Pilkington, by certified mail, on July 24, 2003. The return receipt showed it was received on July 29, 2003. When Board staff received no response to the first NNC, a second NNC was issued on August 25, 2003, again by certified mail, and was received on September 2, 2003. In both NNCs, Board staff requested submittal of the completed annual report by September 25, 2003, a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also identified the mandatory minimum penalty for failure to submit the annual report by the September 25, 2003 deadline.

6. On September 17, 2003, Board staff left a telephone message for Mr. Michael Baumeister, Pilkington's Environmental Health and Safety Manager, regarding the facility's non-submittal of the annual report. On September 19, 2003, Mr. Baumeister returned Board staff's telephone call indicating that he would be working on the annual report that weekend. Board staff left additional telephone messages for Mr. Baumeister on September 23, 2003 and September 25, 2003 reminding Pilkington that the annual report must be submitted by September 25, 2003 to avoid mandatory penalty. Later on the 25<sup>th</sup>, Board staff spoke to Mr. Baumeister and Mr. Larry Valenti (Vice President) and both informed Board staff that the deadline would not be met. Board staff again informed them of the minimum mandatory penalties. The annual report was received in this office on September 29, 2003. This facility violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 1, 2003.
7. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
8. Based on non-submittal of the 2002-2003 annual report, the facility is alleged to have violated the General Permit for 90 days (from July 2, 2003 to September 29, 2003). The total maximum liability for this violation is \$900,000.
9. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a minimum penalty of \$1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code.
10. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes that civil liability be imposed on Pilkington in the amount of \$1,000 for the violation cited above.

#### WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and mail it, together with a check or money order payable to the State Water Resources Control Board for \$1000. The waiver form, bottom portion of the invoice, and the check or money order should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please contact Michelle Beckwith at (909) 782-4433, or Mark Smythe at (909) 782-4998. For legal questions, contact the Regional Board's staff counsel, Jorge Leon at (916) 341-5180.

10/22/03  
Date

  
\_\_\_\_\_  
Gerard J. Thibeault  
Executive Officer

**Attention: L. D. Valenti**

for Pilkington Aerospace, Inc.





# State Water Resources Control Board



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

*The energy challenge facing California is real.  
Every Californian needs to take immediate action to reduce energy consumption.  
For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>*

**Gray Davis**  
Governor

**To:**

PILKINGTON AEROSPACE, INC.  
12122 WESTERN AVENUE  
GARDEN GROVE, CA 92841

Invoice No: 36763  
Invoice Date: 10/21/2003  
Enforcement Action ID: 79231  
Enforcement Order No: R8-2003-0118

## INVOICE

Milestone ID	Description	Amount	Due Date
51403	LIABILITY AMOUNT	\$1,000.00	11/21/2003
TOTAL AMOUNT DUE		\$1,000.00	

### California Environmental Protection Agency



Retain above portion for your records  
Please return bottom portion with your payment

PILKINGTON AEROSPACE, INC.  
12122 WESTERN AVENUE  
GARDEN GROVE, CA 92841

Make your check payable to:  
State Water Resources Control Board

Mail payment to:  
**SWRCB ACCOUNTING**  
**ATTN: ENFORCEMENT**  
**P. O. Box 100**  
**SACRAMENTO, CA 95812-0100**

Milestone ID	Description	Amount	Due Date
51403	LIABDUE	\$1,000.00	11/21/2003
TOTAL AMOUNT DUE		\$1,000.00	

Amount Enclosed: \$ \_\_\_\_\_

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: 36763

Invoice Date: 10/21/2003  
Enforcement Action ID: 79231  
Enforcement Order No.: R8-2003-0118